REMARKS

Applicant respectfully requests reconsideration. Claims 1-10, 12, 14-16, 20, 23-25, 27, 29-30, 38 and 44 were previously pending for examination in this application. Claims 34 and 35 are currently withdrawn. By this amendment, claims 1, 5 and 38 are being amended. Claims 29 and 44 are being canceled without prejudice or disclaimer. New dependent claims 91 and 92 are being added. As a result, claims 1-10, 12, 14-16, 20, 23-25, 27, 30, 38, 91 and 92 are pending for examination, with each of claims 1, 5 and 38 being an independent claim. No new matter has been added.

Allowable Subject Matter

The indication that claim 5 would be allowable if rewritten in independent form to include all of the limitations of its base claim is acknowledged. Claim 5 has been rewritten in independent form and now includes all of the limitations of previously pending claim 1. Accordingly, withdrawal of the objection to claim 5 is respectfully requested. Claim 6 depends from claim 5, and withdrawal of the objection to claim 6 is requested for at least the same reason as claim 5.

Claim 1

Claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,575,969 to Rittman, III (hereinafter, "Rittman"). According to the office action, Rittman discloses real-time imaging which displays a probe with respect to an ablation lesion and the size of the tumor. According to the office action, this teaching provides a signal representing a distance from the electrode tip to the tumor tissue that has not yet been ablated.

Without acceding to the propriety of the rejection, claim 1 has been amended to recite receiving a third signal representing a value of a <u>positive</u> distance from an ablation electrode surface to a target tissue surface. The electrodes in Rittman are described as being placed *within* tumors or other target volumes (see column 17, lines 39-43, and column 23, lines 22-26 of Rittman, for example). As discussed in the specification of the present application, an electrode which is embedded in tissue is spaced at a negative distance from a target tissue surface rather than a positive distance (see page 12, lines 5-9 of present application). Accordingly, Rittman's description of

placing an electrode within a target volume does not teach receiving a signal representing a value of a positive distance from an ablation electrode to a target tissue surface, as recited in amended claim 1, and the rejection of claim 1 as being anticipated by Rittman should be removed.

Additionally, claim 1 recites a distance from an electrode to a tissue *surface*. The boundary between ablated tissue and non-ablated tissue does not necessarily constitute a tissue surface. Accordingly, where an electrode initially ablates adjacent tissue, and then ablates contiguous tissue that is separated from the electrode by the initially-ablated tissue, the distance between the electrode and the boundary ablated tissue/non-ablated tissue boundary is not a distance between an electrode and a tissue surface. Accordingly, Rittman does not teach a signal representing a value of a positive distance from an ablation electrode surface to a target tissue surface, and the withdrawal of the rejection of claim 1 is respectfully requested.

Each of claims 2-4, 7-10, 12, 14-16, 20, 23-25, 27 and 30 depends either directly or indirectly from claim 1, and the rejections of these claims over Rittman should be removed for at least the same reasons provided above for claim 1.

Claim 1 also stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,409,722 to Hoey et al. (hereinafter, "Hoey") in view of the article "Noncontact Radio-Frequency Ablation for Obtaining Deeper Lesions" to Zhang et al (hereinafter, "Zhang"). Without acceding to the propriety of the rejection, claim 1 has been amended to recite receiving a first signal representing a value of a blood flow rate. Hoey does not teach monitoring or otherwise receiving a signal representing a value of a blood flow rate. Accordingly, withdrawal of the rejection of claim 1 over Hoey in view of Zhang is respectfully requested.

Each of claims 2, 9, 10, 12, 14-16, 23-25 and 30 depends either directly or indirectly from claim 1, and withdrawal of the rejections of these claims over Hoey in view of Zhang is respectfully requested for at least the same reasons provided above for claim 1.

Claim 38

Independent claim 38 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hoey in view of Zhang. Without acceding to the propriety of the rejection, claim 38 has been

amended to recite receiving a first signal representing a value of a <u>blood</u> flow rate near the tissue. Hoey does not teach monitoring or otherwise receiving a signal representing a value of a blood flow rate. Accordingly, withdrawal of the rejection of claim 38 over Hoey in view of Zhang is respectfully requested.

        <u>New Dependent Claims</u>

        Claims 91 and 92 have been added, each of which depends from claim 38. Support for new dependent claims 91 and 92 may be found throughout the specification, for example at page 12, lines 2-5.
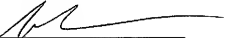
CONCLUSION

        In view of the above amendment, applicant believes the pending application is in condition for allowance and a Notice of Allowance is respectfully requested. If the Examiner believes that minor clarifying amendments to the claim would be helpful, the Examiner is requested to call the undersigned at the telephone number listed below.

        In the event the U.S. Patent and Trademark Office determines that an extension is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document.   Please charge our Deposit Account No. 23/2825 under Docket No. B1075.71016US01 from which the undersigned is authorized to draw.

Dated: June *17*, 2009   Respectfully submitted,

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